

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CASEY R. PERRY,

Plaintiff,

v.

D. DANE,

Defendant.

Case No. C07-5115 RJB/KLS

ORDER TO SHOW CAUSE

This case has been referred to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before the Court on Plaintiff's application to proceed *in forma pauperis*. To initiate legal proceedings Plaintiff must file a complaint, pay a filing fee of \$350.00 or file a proper application to proceed *in forma pauperis*.

On March 8, 2007, the Clerk received Plaintiff's application to proceed *in forma pauperis*. (Dkt. # 1). On March 9, 2007, the Clerk sent Plaintiff a letter informing him that he must either pay the court filing fee or submit a proper application to proceed *in forma pauperis* by April 9, 2007, or this matter could be subject to dismissal. (Dkt. # 2). In addition, Plaintiff failed to submit a proposed Complaint, service copies or Marshal forms.

Pursuant to 28 U.S.C. § 1915(a)(2):

A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor . . . shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for

1 the 6-month period immediately preceding the filing of the complaint or notice of appeal,
 2 obtained from the appropriate official of each prison at which the prisoner is or was
 confined.

3 Plaintiff thus was required to submit a statement showing the balance and activity of his account for the
 4 six-month period immediately preceding the filing of his complaint.

5 In addition, pursuant to 28 U.S.C. § 1915(b), a prisoner seeking to proceed *in forma pauperis* is
 6 required to submit a written acknowledgment and authorization form, authorizing the agency having
 7 custody over him to collect from his prison trust account an initial partial filing fee and subsequent monthly
 8 payments until the full filing fee is paid. Plaintiff has not submitted the acknowledgment and authorization
 9 form approved for use by this Court.

10 In addition, Local Rule CR 3(b) provides in relevant part:

11 At the time application is made under 28 U.S.C. § 1915 or other applicable acts of
 12 Congress, for leave to commence any civil action or to file any petition or motion without
 13 being required to prepay fees and costs or give security for them, each petitioner, movant
 or plaintiff shall:

14 (1) Complete the in forma pauperis affidavit approved for use in this district; and

15 (2) File a written consent that the recovery, if any, in the action, to such amount as
 16 the court may direct, shall be paid to the clerk who may pay therefrom all unpaid fees and
 costs taxed against the plaintiff, and to his attorney the amount which the court allows or
 approves as compensation for the attorney's services.

17 Plaintiff, however, had not submitted the written consent required by Local Rule CR 3(b)(2).

18 Accordingly, the Court **ORDERS** that:

19 (1) Plaintiff shall seek to cure the above deficiencies by paying the full \$350.00 court filing fee
 20 **OR** by filing a proper application to proceed *in forma pauperis* by filing **no later than May**
 21 **31, 2007:**

22 (A) a copy of his prison trust account statement pursuant to 28 U.S.C. § 1915(a)(2)
 23 showing the balance and activity of his account(s) for the six-month period
 immediately preceding the filing of his complaint;

24 (B) a copy of the acknowledgment and authorization form pursuant to 28 U.S.C. §
 1915(b);

25 (C) a copy of the written consent required by Local Rule CR 3(b); and

26 (D) a proposed Complaint, with appropriate copies and completed Marshal forms.

27 **Failure to cure these deficiencies by the above date shall be deemed a failure to properly**
 28 **prosecute this matter and the court will recommend dismissal of this matter.**

1 (2) The Clerk is directed to send a copy of this Order to Plaintiff.

2 DATED this 11th day of May, 2007.

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5 Karen L. Strombom
6 United States Magistrate Judge
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